

• • R E M A R K S • •

The Official Action of January 15, 2003 has been thoroughly studied. Accordingly, the changes presented herein for the application, considered together with the following remarks, are believed to be sufficient to place the application into condition for allowance.

By the present amendment, independent claim 1 has been changed to recite that the blind-end frame includes an annular bottom that is joined to the open frame so as to be folded into the open frame. Claim 1 has further been changed to recite that a filter is mounted in the filter chamber on the annular bottom of the blind end frame.

Support for the change made to claim 1 can be readily found in the drawings, for example, Fig. 2.

Claims 1-6, 11, 12, 14-20, 24 and 28 stand rejected under 35 U.S.C. §102(b) as being clearly anticipated by U.S. Patent No. 4,867,993 to Nordskog.

Claims 8-10, 21-23, 25-27 and 29-31 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Nordskog in view of U.S. Patent No. 4,520,716 to Hayes.

Claims 13 and 32-35 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Nordskog in view of Haynes and U.S. Patent No. 6,103,116 to Koslow et al.

For the reasons set forth below, it is submitted that all of the pending claims are allowable over the prior art and therefore, each of the outstanding rejections of the claims should properly be withdrawn.

Favorable reconsideration by the Examiner is earnestly solicited.

The Examiner has relied upon Nordskog as teaching a filter device comprising a body with an open frame (22, 22a), "blind frame (18,a,b)," annular bottom member (14, 14a), a chamber for substances to be extracted (16, 16a), with the blind frame, the body and the open frame "adapted to be folded together as in instant claim 1 and 14 (fig 1-7)."

The Examiner states that in Nordskog the body and the frames with the filter chamber could be folded up when not in use and expanded to a cup shape when in use as in instant claim 14.

The Examiner has further relied upon Nordskog as teaching that the open frame "is tubular as in instant claim 1 (22 a, 22 b, fig 5 and 7)" and as teaching that the container "has a varied diameter from open frame to blind frame and forms an inverted cone as in instant claims 3 and 15."

The Examiner further has relied upon Nordskog as teaching that the open frame, the body and the blind frame "have substantially the same height as in instant claims 4-6 and 16-18 (see fig 1, 7)" and that the body and frames are "made of material having predetermined rigidity as in instant claims 11 and 25, like paper as in instant claims 12 and 28 (col 2 lines 1-16)."

The Examiner has further relied upon Nordskog as teaching that the upper end of blind end frame is "extending along an inner peripheral face of the blind frame and integrally connected thereto as in instant claim 19 (see fig 7)" and that the upper end of blind end frame "is extended along an outer peripheral face of the blind frame and integrally connected thereto as in instant claim 20 (see fig 1 and 2)."

It is submitted that applicant's claimed invention distinguishes over Nordskog.

Applicant's claimed invention, as claimed, includes a "blind-end frame." Applicant's blind-end frame is identified by reference numeral 3 (See Fig. 2) and includes bottom 6 and body part 5. The bottom 6 of applicant's blind-end frame is not the actual bottom of the filter device (container

body 1) because the inner walls of body part 5 are turned back and folded inward or inverted as depicted, thus creating a "blind-end" structure.

Applicant claims and teaches a "blind-end" structure.

Nordskog does not teach a "blind-end frame" or "blind frame" as the Examiner states.

The Examiner refers to Nordskog as teaching "blind frame (18,a,b)."

However, Nordskog specifically teaches that reference numeral 18 identifies a "closed bottom" (column 2, line 58).

Nordskog states that the letters "a" and "b" are used to identify elements in Figs. 4-7 which are similar to elements in the previous figures.

There is no reference numeral 18a in Nordskog as the Examiner seems to indicate.

In Fig. 7, reference numeral 18b identifies a closed bottom that is substantially similar the closed bottom 18a in Fig. 1.

It is accordingly submitted that Nordskog does not teach a blind-end structure.

Moreover, there is no reason to provide Nordskog with a blind end.

For the Examiner's reference, applicant is submitting herewith as Exhibit A is a copy of U.S. Patent No. 4,530,439 to Finnell which claims a "first blind end" which is believed to refer to bottom end wall 30 in Fig. 3. Finnell indicates at least one structure that is referred to as a "blind end." That is, a structure in which the blind end is not the actual end or bottom of the device.

It is submitted that the term "blind-end" as used by applicant is recognized in the art and relates to a particular structure which is not taught by Nordskog. Moreover, applicant clearly describes and depicts the blind-end structure that he has claimed.

Accordingly, Nordskog does not anticipate applicant's claimed invention.

It is further noted that Nordskog fails to teach a structure in which the blind-end frame is foldable into the open frame together with the filter chamber.

The Examiner has relied upon Nordskog as teaching "an open frame (22,22a).

However, Nordskog utilizes reference numerals 22 and 22a to identify an open top.

The closed bottom 18 (construed by the Examiner to be a blind frame) does not fold into the open top (construed by the Examiner to be an open frame).

Accordingly, Nordskog does not anticipate the requirement in claim 1 that the blind-end frame is foldable into the open frame.

Nordskog teaches a chamber that has an accordion structure (Figs. 1-3) or one that includes a series of nesting sections (Figs. 4-6) or one that include telescoping walls.

Nordskog does not teach a chamber that includes a portion that folds back into itself or otherwise has an inverted bottom or a blind end.

The Examiner has relied upon Hayes as teaching a "reinforcing frame forming a cup holder in a coffee maker filter."

In combining the teachings of Nordskog and Hayes, the Examiner has taken the position that:

It would have been obvious....to use the teachings of Hayes (716) to have a cup holder incorporated into the teachings of Nordskog (993) for attaching the filter on a coffee cup.

The Examiner's further reliance upon Hayes does not address or overcome the deficiencies noted above between the teachings of Nordskog and the present invention.

Moreover, the "Disposable Beverage Brewing Chamber" of Nordskog is configured to be used in conjunction with a "conventional coffee or other hot beverage brewing and dispensing

machine.” The chamber is provided with rims 38 that are “used to fit into standard guideways in a coffee or other similar hot beverage making machine.

There is no motivation in the record for modifying Nordskog to have the bottom basket 30 of Hayes.

Moreover, it is submitted that neither the bottom 18 of Nordskog nor the “closed bottom coffee-holding basket” of Hayes are configured to be folded back into an open frame structure.

Accordingly, there is no combination of Nordskog and Hayes that renders applicant’s claimed invention obvious.

The Examiner has relied upon Koslow et al. as teaching a non-woven fabric material for the filter material of a coffee filter.

The Examiner’s further reliance upon Koslow et al. does not address or overcome the deficiencies noted above in reference to either Nordskog alone or in combination with Hayes.

Based upon the above distinctions between the prior art relied upon by the Examiner and the present invention, and the overall teachings of prior art, properly considered as a whole, it is respectfully submitted that the Examiner cannot rely upon the prior art as required under 35 U.S.C. §102 as anticipating applicant’s claimed invention.

Moreover, it is submitted that the Examiner cannot properly rely upon the prior art as required under 35 U.S.C. §103 to establish a *prima facie* case of obviousness of applicant’s claimed invention.

It is, therefore, submitted that any reliance upon prior art would be improper inasmuch as the prior art does not remotely anticipate, teach, suggest or render obvious the present invention.

It is submitted that the claims, as now amended, and the discussion contained herein clearly show that the claimed invention is novel and neither anticipated nor obvious over the teachings of the prior art and the outstanding rejection of the claims should hence be withdrawn.

Therefore, reconsideration and withdrawal of the outstanding rejection of the claims and an early allowance of the claims is believed to be in order.

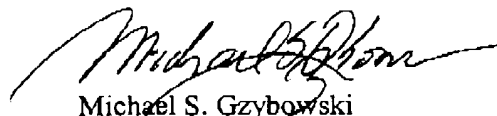
It is believed that the above represents a complete response to the Official Action and reconsideration is requested.

The prior art cited on page 4 of the Official Action but not relied upon by the Examiner has been noted. This prior art is not deemed to be particularly pertinent to applicant's claimed invention.

If upon consideration of the above, the Examiner should feel that there remain outstanding issues in the present application that could be resolved, the Examiner is invited to contact applicant's patent counsel at the telephone number given below to discuss such issues.

To the extent necessary, a petition for an extension of time under 37 CFR §1.136 is hereby made. Please charge the fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 12-2136 and please credit any excess fees to such deposit account.

Respectfully submitted,

  
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FAX RECEIVED  
MAR 27 2003  
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Marked-Up Copy of the Claims  
As Amended on March 26, 2003

1. (Amended) A filter device for coffee of the like [comprising;] comprising:

a container body consisting of an open frame formed of sheet material having predetermined rigidity, and a blind-end frame, including an annular bottom member, [and connected to] being joined with said open frame so as to be [folded,] foldable into said open frame, said blind-end frame being formed of sheet material having predetermined flexibility; and

a filter chamber for enclosing a substance to be extracted, [and received in] being mounted with a filter on said annular bottom member, [via a filter,]

wherein said blind-end frame is [adapted to be folded inside] foldable into said open frame together with said filter chamber.